



# County of Santa Cruz

## PLANNING DEPARTMENT

701 OCEAN STREET - 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

June 4, 2002

Agenda: June 11, 2002

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, California 95060

**SUBJECT: CONSIDERATION OF A PROPOSED AMENDMENT TO COUNTY CODE CHAPTER 18.10 TO PROVIDE FOR A PROCEDURE TO REVIEW AND ANALYZE APPLICATIONS FOR RESIDENTIAL DEVELOPMENT PROPOSED AT DENSITIES LESS THAN THE LOWEST END OF THE GENERAL PLAN DENSITY RANGE AS EARLY IN THE PROCESS AS POSSIBLE.**

Members of the Board:

### **Background**

Over the past year, your Board has expressed serious concern about the housing crisis in the County. These issues discussed by your Board include the high cost of new housing (average price currently = \$695,000), the lack of affordable for-sale and rental units, the limited supply of available land for new development and the urgent need for housing to address the workforce housing needs and to serve special groups such as farmworkers and the elderly.

To partly address these issues, your Board has taken a number of initiatives this past year originating from the Affordable Housing Action Plan presented to your Board in October, 2001. One of the key issues included in the Affordable Housing Action Plan involved adopting a policy to better ensure that properties currently zoned for residential use be developed at a density level consistent with the density range designated by the General Plan and the zoning. To this end, on February 26, your Board conceptually approved a new process for reviewing applications for

development at densities less than the lowest end of the General Plan density range. At that time, your Board considered a proposed procedure to analyze and review an application proposed at a density less than the lowest end of the density range as early in the process as possible. This would give the developer a preliminary determination as to whether the proposed density is appropriate, given the site characteristics, environmental issues, surrounding development and the need for housing in the community. The Board approved this approach, in concept, and directed the Planning Department to develop amendments to County Code Chapter 18.10 to add a process to review applications that are not consistent with the General Plan density range and to develop any required administrative procedures, and to return to the Board on or before June 11, 2002, for final adoption of the ordinance.

The proposed procedure, approved by your Board on February 26 involved adding language to County Code Section 18.10.140(Conformity with the General Plan and other legal requirements), as follows (approved language is shown underlined):

**18.10.140 Conformity with the general plan and other legal requirements.**

(a) All permits and approvals issued under this Chapter shall be consistent with the provisions of the adopted County General Plan. Any proposed permit or approval which is not consistent with the existing adopted General Plan may be issued or approved only concurrently with the adoption of appropriate amendments to the General Plan necessary to maintain consistency. "Consistent with" as used in this section means that the permits and approvals must be in harmony with and compatible with the policies, objectives, and land use programs of the General Plan.

(b) All proposals for development of property at less than the lowest end of the designated density range of the County General Plan – LCP land use designation shall be subject to review by the Development Review Group (see 18.10.210(c) 1). Following completion of the Development Review Group process, the proposal and the information developed as a result of the Development Review Group process shall be referred to the Board of Supervisors for a preliminary General Plan consistency determination at a public hearing limited to whether the proposed density is appropriate given the need for housing in the community.

As indicated in the proposed ordinance language, the referral to the Board of Supervisors would occur following the Development Review Group (DRG) process. There are a number of reasons for this particular process. First, the DRG process is intended to gather a great deal of information regarding the property including infrastructure constraints, environmental issues, and consistency with County ordinances and General Plan policies. This information will give the Board of Supervisors a basis to conduct the policy review. Second, the DRG process, an advisory process, is conducted in the earliest stage of the development review process and is prior to the filing of applications

for a project. This means that there are no Permit Streamlining Act, CEQA or Subdivision Map Act issues. And third, because the DRG is a relatively inexpensive review (\$1,376 plus DPW charges) and the application requirements are much less rigorous than for a permit application, the applicant's investment in the project and the process will be minimized.

Following the Board's review, a preliminary determination will be made regarding whether the proposed density is appropriate for the site. If the proposed density level is deemed to be inappropriate for the site, the applicant would be free to proceed with the proposal, but they would be mindful of the critical issues prior to investing further resources into their project.

### **Proposed Revisions**

Based on further staff review, staff recommends three changes to the conceptually approved language. These changes are included in the recommended ordinance – Exhibit A to Attachment 1. First, staff recommends that the word “residential..” be added before the word “development” in the first sentence of the new language. This will clarify that the language applies only to residential projects.

Second, we recommend that the phrase “in the Urban Services Line..” be added following the word “development” in the first line. This added wording limits the application of the section to proposed development inside the Urban Services Line (USL). This is consistent with the General Plan and Measure J requirements to maximize the use of urban lands for development where infrastructure is available to support such development, and minimizing development outside the USL.

Finally, staff is recommending that the following language be added on the third line, after the word “designation”: “where there is the potential that one or more additional units could be accommodated on-site at the lowest end of the density range..” This language is recommended to address situations where the size of the lot exceeds the lowest end of the density range, but there is no potential for additional development at that density. For example, in the Urban High Density designation, the density range is 3,000-4,000 square feet/unit. A proposed dwelling on a 5,000 square foot lot (a density of 1 unit/5,000 square feet) would not be consistent with the General Plan density range. However, because no additional development could occur at the low end of the density range (4,000 square feet/unit), requiring the review under the proposed section would be pointless. This language would exempt a proposal under these circumstances.

### **Planning Commission Review**

On May 22, 2002, the Planning Commission considered the changes forwarded from the Board. The Commission voted 3 to 1 to recommend that your Board not approve the proposed density amendment. Concerns raised by Commissioners included the following: the process would add cost and time to proposals, the process doesn't address

affordable housing, and the process would involve the Board in non-binding preliminary actions for projects that don't usually come before the Board.

### **Discussion**

As discussed earlier in this report, if a project did not conform to the density ranges in the General Plan, a review of the lower density proposed would entail further review by staff at an additional cost for a project proponent, specifically a Development Review Group fee of \$1376. Because this additional fee would apply only to residential subdivisions and multiple dwellings on a single parcel, which are typically speculative development, staff believes that the additional cost will not be overly burdensome and, when averaged over the cost of the units to be built, will not be significant. There would be an additional amount of time involved at the "front end" of a project. This amount of time is unknown and would vary depending on the staff workload. Addressing these issues at the front end of the process could actually expedite project review and reduce costly delays associated with changes made at the "back end" of the development review process. The money and time invested would give the applicant a better sense of whether or not the proposed project is likely to be approved and if any changes are necessary, early in the process, and would provide a greater degree of certainty to the applicant. To expedite this process, your Board could direct the Planning Department to give priority processing for the density determination review.

The proposed amendment to establish a density review process evolved out of your Board's concern about housing availability and affordability in the County. The proposed amendment would not by itself make housing more affordable. It would, however, allow your Board to maximize the potential availability of housing within the approved densities existing in the General Plan. The proposal would not require that all residential development proposals subject to it be developed to the maximum density required by the General Plan. It would simply allow the Board to review a residential development proposal and advise the applicant whether or not the Board believes the density is appropriate given the site and the need for housing in the community. The applicant could take this information and factor it into the making of an actual development proposal.

Although most of the proposals that would be subject to the amendment do not normally come before your Board in the regular course of project review (they are usually heard and acted upon by the Zoning Administrator or Planning Commission), given the housing crisis in the County it is not unreasonable for your Board to review these on an advisory basis very early in the process. As the governing body for the County, your Board is ultimately responsible for ensuring the provision of adequate housing in the unincorporated portion of the County. The proposed amendment would give your Board the opportunity to formally advise applicants for residential development about the appropriateness of the density of their proposals.

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### **Conclusion**

The amount of land suitable for residential development is limited. These residential properties have been designated with specific density ranges. However, while your Board would continue to have the discretion to ultimately approve projects below the General Plan density range, the proposed amendment will help ensure properties are developed within the designated density range.

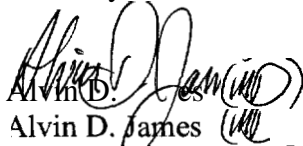
In order to prevent the inappropriate development of the remaining residential properties at densities below the designated density range, the recommended alternative not only allows the Board of Supervisors to determine whether proposed density of a project is appropriate for a specific site, but also would do so at the earliest stage of the development review process. The proposed process would provide a means for the County to make site-specific determinations on the appropriate densities for future development on the few remaining residential sites, while addressing the site-specific issues regarding infill development. Your Board has previously voted to approve the recommended approach in concept and staff recommends that this action be reaffirmed.

### **Recommendation**

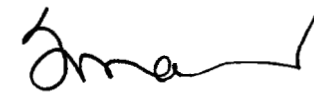
Therefore, given your Board's prior support of this proposal and the urgent need for housing for those who live and work here, it is RECOMMENDED that your Board:

1. Adopt the Ordinance amending Chapter 18.10 to approve the proposed amendment to add a process to review applications that are not consistent with the General Plan density range, as revised by staff; and
2. Certify the CEQA exemption (Attachment 3); and
3. Direct the Planning department to include this amendment as a part of the next round of amendments to be submitted to the California Coastal Commission for review and certification.

Sincerely, –

  
Alvin D. James  
Planning Director

RECOMMENDED:

  
Susan A. Mauriello  
County Administrative Officer

Attachments      1.      Resolution Approving Amendment to the General Plan –  
Local Coastal Program Implementation Plan to require a

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density review for residential development proposals at less than the adopted General Plan density range

Exhibit A: Ordinance amending County Code Section Chapter 18.10.140 to require a density review for residential development proposals at less than the adopted General Plan density range

2. Ordinance amending County Code Section Chapter 18.10.140 to require a density review for residential development proposals at less than the adopted General Plan density range

3. CEQA Exemption

4. Planning Commission Staff Report

Exhibit A: Environmental Exemption

Exhibit B: Planning Department letter to Board for 02-26-02 agenda

Exhibit C: County Counsel letter to Board for 02-12-02 agenda

Exhibit D: Density of recent subdivisions

Exhibit E: Pages 2-19 through 2-22, 1994 County General Plan

Exhibit F: Government Code Section 65589.5

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. \_\_\_\_\_

On the motion of Supervisor  
duly seconded by Supervisor  
the following Resolution is adopted:

BOARD OF SUPERVISORS RESOLUTION AMENDING  
THE GENERAL PLAN/LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN,  
COUNTY CODE SECTION 18.10.140 TO REQUIRE REVIEW OF THE  
APPROPRIATENESS OF RESIDENTIAL DEVELOPMENT APPLICATIONS  
BELOW THE MINIMUM GENERAL PLAN – LOCAL COASTAL PROGRAM LAND  
USE DESIGNATION DENSITY RANGE

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WHEREAS, the Board of Supervisors, on May 24, 1994, adopted the County General Plan/Local Coastal Program Land Use Plan (GP/LCP) which designated certain properties as future County park sites and on December 19, 1994, the County General Plan/Local Coastal Program was certified by the California Coastal Commission; and

WHEREAS, on October 2, 2001, the Board of Supervisors hosted an affordable housing workshop and directed various County departments to return with a report addressing issues related to the current housing crisis in the County; and

WHEREAS, on November 6, 2001, and December 11, 2002, the Board of Supervisors considered the report and the issues discussed therein and directed County Counsel to return with a report on the development of General Plan – Local Coastal Program residential development policies and directed the Planning Department to return with potential alternatives to ensure that residential development was consistent with the land use designation density range; and

WHEREAS, on February 26, 2002, the Board of Supervisors considered the report of County Counsel that concluded that the current General Plan – Local Coastal Program residential development policies could and in fact had been read by Planning staff and others as allowing for the approval of residential development below the minimum density of the land use designation density range; and

WHEREAS, on February 26, 2002, the Board of Supervisors also considered various alternatives to for ensure that proposals for residential development be consistent with the Land use designation density range; and

WHEREAS, on May 22, 2002, the Planning Commission considered and rejected a Planning Department staff report recommending that the Planning Commission recommend approval of an amendment to County Code Section 18.10.140 to require a

process to review applications that propose residential development at densities less than the lowest density of the land use designation density range; and

WHEREAS, on June 11, 2002, the Board of Supervisors considered the recommendation of the Planning Commission and, notwithstanding that recommendation, finds that the proposed amendment is consistent with the California Coastal Act; and

WHEREAS, the proposed amendment to the Local Coastal Program Implementation Plan (County Code Section 18.10.140) have been found to be categorically exempt from the California Environmental Quality Act (CEQA), consistent with applicable provisions of CEQA and the County of Santa Cruz Environmental Review Guidelines;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Board of Supervisors approves the amendment to the Local Coastal Program Implementation Plan as set forth in Attachment 1, Exhibit 1, Exhibit A, and the CEQA Categorical Exemption, incorporated herein by reference, and authorizes their submittal to the California Coastal Commission as part of the Local Coastal Program Update.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2002 by the following vote:

AYES: SUPERVISORS  
NOES: SUPERVISORS  
ABSENT: SUPERVISORS  
ABSTAIN: SUPERVISORS

\_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST: \_\_\_\_\_  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ASST. COUNTY COUNSEL

cc: County Counsel  
Planning Department



ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING SECTION 18.10.140 OF THE SANTA CRUZ COUNTY  
CODE BY ADDING LANGUAGE REQUIRING THAT CERTAIN PROPOSALS FOR  
RESIDENTIAL DEVELOPMENT WITHIN THE URBAN SERVICE LINE AT  
DENSITIES LESS THAN THE LOWEST END OF THE GENERAL PLAN DENSITY  
RANGE TO UNDERGO A PRELIMINARY GENERAL PLAN CONSISTENCY  
DETERMINATION

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The Board of Supervisors of the County of Santa Cruz ordains as follows:

**SECTION I**

The Board of Supervisors finds that the public convenience, necessity, and general welfare require the amendment of the County Zoning Ordinance Permit and Approval Procedures to implement the policies of the County General Plan and Local Coastal Program Land Use Plan regarding the density of residential development listed below in Section III; finds that the proposed amendment herein is consistent with all elements of the Santa Cruz County General Plan and the Local Coastal Program; and finds and certifies that the proposed action is categorically exempt from the California Environmental Quality Act .

**SECTION II**

The Board of Supervisors hereby rejects the recommendation of the Planning Commission that the Board not approve the amendment to the Zoning Ordinance Permit and Approval Procedures Section as described in Section III, and adopts the following finding in support thereof as set forth below:

The proposed amendment will ensure a density of residential development that is consistent with the objectives and land use designations of the adopted General Plan.

**SECTION III**

The County Zoning Ordinance Permit and Approval Procedures Section 18.10.140 is hereby amended by adding a new subsection (b) as shown below, with the new language shown underlined:

**18.10.140 Conformity with the general plan and other legal requirements.**

(a) All permits and approvals issued under this Chapter shall be consistent with the provisions of the adopted County General Plan. Any proposed permit or approval which is not consistent with the existing adopted General Plan may be issued or approved only concurrently with the adoption of appropriate amendments to the General Plan necessary to maintain

consistency. "Consistent with" as used in this section means that the permits and approvals must be in harmony with and compatible with the policies, objectives, and land use programs of the General Plan.

(b) All proposals for residential development of property within the urban services line at less than the lowest end of the designated density range of the County General Plan – LCP land use designation where there is the potential that one or more additional units could be accommodated on-site at the lowest end of the density range shall be subject to review by the Development Review Group (see 18.10.210(c)1). Following completion of the Development Review Group process, the proposal and the information developed as a result of the Development Review Group process shall be referred to the Board of Supervisors for a preliminary General Plan consistency determination at a public hearing limited to whether the proposed density is appropriate given the need for housing in the community.

This ordinance shall take effect immediately upon certification by the California Coastal Commission.

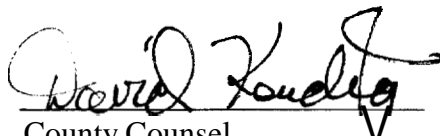
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by the following vote:

AYES: SUPERVISORS  
NOES: SUPERVISORS  
ABSENT: SUPERVISORS  
ABSTAIN: SUPERVISORS

\_\_\_\_\_  
CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: \_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

  
County Counsel

Copies to: Planning  
County Counsel

ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING SECTION 18.10.140 OF THE SANTA CRUZ COUNTY  
CODE BY ADDING LANGUAGE REQUIRING THAT CERTAIN PROPOSALS FOR  
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DENSITIES LESS THAN THE LOWEST END OF THE GENERAL PLAN DENSITY  
RANGE TO UNDERGO A PRELIMINARY GENERAL PLAN CONSISTENCY  
DETERMINATION

---

The Board of Supervisors of the County of Santa Cruz ordains as follows:

**SECTION I**

The Board of Supervisors finds that the public convenience, necessity, and general welfare require the amendment of the County Zoning Ordinance Permit and Approval Procedures to implement the policies of the County General Plan and Local Coastal Program Land Use Plan regarding the density of residential development listed below in Section III; finds that the proposed amendment herein is consistent with all elements of the Santa Cruz County General Plan and the Local Coastal Program; and finds and certifies that the proposed action is categorically exempt from the California Environmental Quality Act .

**SECTION II**

The Board of Supervisors hereby rejects the recommendation of the Planning Commission that the Board not approve the amendment to the Zoning Ordinance Permit and Approval Procedures Section as described in Section 111, and adopts the following finding in support thereof as set forth below:

The proposed amendment will ensure a density of residential development that is consistent with the objectives and land use designations of the adopted General Plan.

**SECTION III**

The County Zoning Ordinance Permit and Approval Procedures Section 18.10.140 is hereby amended by adding a new subsection (b) as shown below, with the new language shown underlined:

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.12.

consistency. "Consistent with" as used in this section means that the permits and approvals must be in harmony with and compatible with the policies, objectives, and land use programs of the General Plan.

(b) All proposals for residential development of property within the urban services line at less than the lowest end of the designated density range of the County General Plan – LCP land use designation where there is the potential that one or more additional units could be accommodated on-site at the lowest end of the density range shall be subject to review by the Development Review Group (see 18.10.210(c)1). Following completion of the Development Review Group process, the proposal and the information developed as a result of the Development Review Group process shall be referred to the Board of Supervisors for a preliminary General Plan consistency determination at a public hearing limited to whether the proposed density is appropriate given the need for housing in the community.

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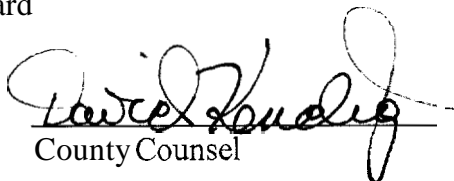
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by the following vote:

AYES: SUPERVISORS  
NOES: SUPERVISORS  
ABSENT: SUPERVISORS  
ABSTAIN: SUPERVISORS

\_\_\_\_\_  
CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: \_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

  
County Counsel

Copies to: Planning  
County Counsel

## NOTICE OF EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The County of Santa Cruz has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15329 of CEQA for the reason(s) which have been checked on this document.

Application No. NA

Assessor Parcel No. County Wide

Project Location: County Wide

Project Description: Proposal to amend section 18.10.140 of the Zoning Ordinance by adding a subsection that will require certain reviews for General Plan (GP) and Ordinance consistency if a project proposes development at a lesser density than the range given for the property in the 1994 GP.

Person or Agency Proposing Project: County of Santa Cruz Planning Department

Phone Number: Steve Guinney, 831 454 3172

A. \_\_\_\_\_ The proposed activity is not a project under CEQA Guidelines, Sections 1928 and 501.

B. \_\_\_\_\_ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgement.

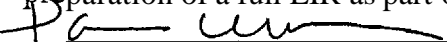
C. \_\_\_\_\_ Statutory Exemption other than a Ministerial Project.  
Specify type: Article 17, Section 1703. Timberland Preserves

D. Categorical Exemption

- |  |   |
|--|---|
| <input type="checkbox"/> 1. Existing Facility  | <input type="checkbox"/> 17. Open Space Contracts or Easements                                  |
| <input type="checkbox"/> 2. Replacement or Reconstruction                                    | <input type="checkbox"/> 18. Designation of Wilderness Areas                                    |
| <input type="checkbox"/> 3. New Construction of Small Structure                              | <input type="checkbox"/> 19. Annexation of Existing Facilities/Lots for Exempt Facilities       |
| <input type="checkbox"/> 4. Minor Alterations to Land  | <input type="checkbox"/> 20. Changes in Organization of Local Agencies                          |
| <input checked="" type="checkbox"/> 5. Alterations in Land Use Limitations*                  | <input type="checkbox"/> 21. Enforcement Actions by Regulatory Agencies                         |
| <input type="checkbox"/> 6. Information Collection   | <input type="checkbox"/> 22. Educational Programs   |
| <input type="checkbox"/> 7. Actions by Regulatory Agencies for Protection of the Environment | <input type="checkbox"/> 23. Normal Operations of Facilities for Public Gatherings              |
| <input type="checkbox"/> 8. Actions by Regulatory Agencies for Protection of Nat. Resources  | <input type="checkbox"/> 24. Regulation of Working Conditions                                   |
| <input type="checkbox"/> 9. Inspection   | <input type="checkbox"/> 25. Transfers of Ownership of Interests in Land to Preserve Open Space |
| <input type="checkbox"/> 10. Loans   |   |
| <input type="checkbox"/> 11. Accessory Structures  | <input type="checkbox"/> 26. Acquisition of Housing for Housing Assistance Programs             |
| <input type="checkbox"/> 12. Surplus Govt. Property Sales                                    | <input type="checkbox"/> 27. Leasing New Facilities   |
| <input type="checkbox"/> 13. Acquisition of Land for Wildlife Conservation Purposes          | <input type="checkbox"/> 28. Small Hydroelectric Projects at Existing Facilities                |
| <input type="checkbox"/> 14. Minor Additions to Schools                                      | <input type="checkbox"/> 29. Cogeneration Projects at Existing Facilities                       |
| <input type="checkbox"/> 15. Minor Land Divisions  |   |
| <input type="checkbox"/> 16. Transfer of Ownership of Land to Create Parks                   |   |

E. \_\_\_\_\_ Lead Agency Other Than County:

\*The amendment does not have the potential to create environmental impacts because it does not actually increase density or modify the density range given in the General Plan. Further, any potential impacts of the density range given in the General Plan have been analyzed through the preparation of a full EIR as part of the General Plan approval process in 1994.

  
Paia Levine, Resource Planner

4-9-02  
Date



# County of Santa Cruz

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## PLANNING DEPARTMENT

701 OCEAN STREET - 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060

(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

April 24, 2002

Agenda: May 22, 2002

Planning Commission  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, California 95060

**SUBJECT: AMENDMENT TO COUNTY CODE CHAPTER 18.10 TO PROVIDE FOR A PROCEDURE TO REVIEW AND ANALYZE APPLICATIONS FOR RESIDENTIAL DEVELOPMENT PROPOSED AT DENSITIES LESS THAN THE LOWEST END OF THE GENERAL PLAN DENSITY RANGE AS EARLY IN THE PROCESS AS POSSIBLE.**

### Members of the Planning Commission:

As a result of a Board of Supervisors-hosted affordable housing workshop in October of last year, the Board directed the County Administrative Officer (CAO) and staff from various County agencies to return with a report that addressed a wide range of issues related to the current housing crisis in the County. On November 6, 2001, the CAO presented a report, entitled the Affordable Housing Action Plan, that responded to all of the issues raised by the Board. One of the central features of the proposed Housing Action Plan considered by the Board involved a recommendation to adopt a policy to better ensure that properties currently zoned for residential use be developed at a density level consistent with the density range designated by the General Plan and the zoning. The Board continued this issue to December 11, 2001, and staff prepared a report outlining in more detail its interpretation of the General Plan policies and presenting a process for the review of applications for development at densities less than the lowest end of the General Plan density range.

On December 11, 2001, the item was again continued and County Counsel was requested to conduct additional research on the development of the General Plan policies. In brief, County Counsel's conclusion is that the General Plan policies approved by the Board as a part of the 1994 General Plan update allows the County to approve projects at any density within or below the designated residential density range of the General Plan. While this is not clearly worded in the General Plan, in practice this is direction that staff and the Planning Commission have been acting under since 1994. The following discussion sets forth the Board-directed proposed amendments to the County Code to implement the intent of the CAO's proposed Housing Action Plan regarding land use densities.

### **Proposed Policy Regarding Approval of Housing Development under Existing General Plan and Zoning**

The Affordable Housing Action Plan addressed the issue of multi-residential zoning by presenting statistics regarding the current availability of RM zoned properties, discussing the recent history of development on these types of land and presented a number of recommendations focusing on ways that the County could ensure that properties designated for multi-family development are developed at the densities designated by the General Plan. One of the recommendations (no. 2.a), states as follows:

Approval of a policy to require [that] the Approving Body must make certain findings as part of approval of a residential development that is below the General Plan density range and that the proposed use is consistent with the General Plan and appropriate, given the need for housing in the community. . . .

The intent of this policy was to require the Approving Body (Zoning Administrator, Planning Commission or the Board) to consciously make a determination that the density of the proposed project was appropriate, based on General Plan policies and the need for housing in the community.

### **Discussion of General Plan Density Issues**

One of the issues identified in the Affordable Housing Action Plan was the fact that there are not many parcels remaining that are suitable for higher density residential development. Meanwhile, projects have been approved in the past at densities that are not consistent with the General Plan land use designation. While the General Plan apparently permits these types of projects to be approved, since the adoption of the General Plan in 1994, things have changed significantly. Housing prices have skyrocketed and the supply of new housing units, especially those for lower and middle income households, and available land for new development has dwindled. These are some of the reasons why the Board hosted the October housing workshop and considered the CAO's proposed Housing Action Plan. That Plan identified a number of initiatives to address affordable housing issues, including a proposal to encourage the development residential properties at the specified density levels.

### **Potential Alternatives**

The Board considered a number of actions to address the issue of maintaining the densities established by the specific General Plan designations. One approach was the adoption of a new

General Plan policy superceding the existing policy language that allows approval of residential development outside the designated density range. This approach would involve an amendment to the General Plan.

Another approach that would not require a General Plan amendment would be to require that a specific action be taken for applications that seek approval at densities below the designated density range. The recommended action in the Affordable Housing Action Plan to address this issue was the development of a policy that required the Approving Body to make specific findings for a project with density less than the General Plan density range. The findings would specifically document how the project was consistent with the General Plan and appropriate given the need for housing in the community and the lower densities proposed. These findings would be in addition to the existing findings required by the County Code. While these findings would be useful in determining whether the particular site was appropriately designated, a project applicant would not discover whether there was support for the project at a' less than designated density until very late in the application process.

Yet a third approach would be to develop a procedure to analyze and review an application proposed at a density less than the lowest end of the density range as early in the process as possible. This would give the developer a preliminary determination as to whether the proposed density is appropriate, given the site characteristics, environmental issues, surrounding development and the need for housing in the community. The Board approved this approach, in concept, and directed the Planning Department to develop amendments to County Code Chapter 18.10 to add a process to review applications that are not consistent with the General Plan density range and to develop any required administrative procedures, and to return to the Board on or before June 11, 2002, for final adoption of the ordinance.

The proposed procedure could be added to the existing language to County Code Section 18.10.140 (Conformity with the General Plan and other legal requirements), as follows (proposed language is shown underlined):

**18.10.140 Conformity with the general plan and other legal requirements.**

(a) All permits and approvals issued under this Chapter shall be consistent with the provisions of the adopted County General Plan. Any proposed permit or approval which is not consistent with the existing adopted General Plan may be issued or approved only concurrently with the adoption of appropriate amendments to the General Plan necessary to maintain consistency.

“Consistent with” as used in this section means that the permits and approvals must be in harmony with and compatible with the policies, objectives, and land use programs of the General Plan.

(b) All proposals for development of property at less than the lowest end of the designated density range of the County General Plan – LCP land use designation shall be subject to review by the Development Review Group (see 18.10.210(c)1). Following completion of the Development Review Group process, the proposal and the information developed as a result of the Development Review Group process shall be referred to the Board of Supervisors for a preliminary General Plan consistency determination at a public hearing limited to whether the proposed density is appropriate given the need for housing in the community.



As indicated in the proposed ordinance language, the referral to the Board of Supervisors would occur following the Development Review Group (DRG) process. There are a number of reasons for this particular process. First, the DRG process is intended to gather a great deal of information regarding the property including infrastructure constraints, environmental issues, and consistency with County ordinances and General Plan policies. This information will give the Board of Supervisors a basis to conduct the policy review. Second, the DRG process, an advisory process, is conducted in the earliest stage of the development review process and is prior to the filing of applications for a project. This means that there are no Permit Streamlining Act, CEQA or Subdivision Map Act issues. And third, because the DRG is a relatively inexpensive review (\$1,376 plus DPW charges) and the application requirements are much less rigorous than for a permit application, the applicant's investment in the project and the process will be minimized.

Following the Board's review, a preliminary determination will be made regarding whether the proposed density is appropriate for the site. If the proposed density level is deemed to be inappropriate for the site, the applicant would be free to proceed with the proposal, but they would be mindful of the critical issues to investing further resources into their project.

#### Discussion and Recommendation

As identified in the Affordable Housing Action Plan considered by the Board on November 6, 2001, the amount of land suitable for residential development is limited. These residential properties have been designated with specific density ranges. However, development at any density below the maximum density established for the particular land use designation can be approved. In order to prevent the inappropriate development of the remaining residential properties at densities below the designated density range, the proposed amendment will not only allow the Board of Supervisors to determine whether proposed density of a project is appropriate for a specific site, but would do so at the earliest stage of the development review process. The proposed process would provide a means for the County to make site-specific determinations on the appropriate densities for future development on the few remaining residential sites, while addressing the site-specific issues regarding infill development.

Therefore, staff RECOMMENDS that your Commission:

Recommend to the Board of Supervisors approval of the proposed amendments to County Code Chapter 18.10, noted above, to add a process to review applications that are not consistent with the General Plan density range.

Sincerely,

Alvin D. James  
Planning Director

- Attachments    1    Environmental Exemption  
                     2.    Planning Department letter to Board for February 26, 2002 agenda

3. County Counsel letter to Board for agenda of February 12, 2002
4. Density of recent subdivisions
5. Pages 2-19 through 2-22, 1994 County General Plan
6. Government Code Section 65589.5

## NOTICE OF EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The County of Santa Cruz has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15329 of CEQA for the reason(s) which have been checked on this document.

Application No. NA

Assessor Parcel No. County Wide

Project Location: County Wide

Project Description: Proposal to amend section 18.10.140 of the Zoning Ordinance by adding a subsection that will require certain reviews for General Plan (GP) and Ordinance consistency if a project proposes development at a lesser density than the range given for the property in the 1994 GP.

Person or Agency Proposing Project: County of Santa ~~Cruz~~ Planning Department

Phone Number: Steve Guinney, 831 454 3172

- A. ☐ The proposed activity is not a project under CEQA Guidelines, Sections 1928 and 501.
- B. ☐ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgement.
- C. ☐ Statutory Exemption other than a Ministerial Project.  
Specify type: Article 17, Section 1703. Timberland Preserves
- D. Categorical Exemption
- |  |   |
|--|---|
| <input type="checkbox"/> 1. Existing Facility  | <input type="checkbox"/> 17. Open Space Contracts or Easements                                  |
| <input type="checkbox"/> 2. Replacement or Reconstruction                                    | <input type="checkbox"/> 18. Designation of Wilderness Areas                                    |
| <input type="checkbox"/> 3. New Construction of Small Structure                              | <input type="checkbox"/> 19. Annexation of Existing Facilities/Lots for Exempt Facilities       |
| <input type="checkbox"/> 4. Minor Alterations to Land  | <input type="checkbox"/> 20. Changes in Organization of Local Agencies                          |
| <input checked="" type="checkbox"/> 5. Alterations in Land Use Limitations*                  | <input type="checkbox"/> 21. Enforcement Actions by Regulatory Agencies                         |
| <input type="checkbox"/> 6. Information Collection   | <input type="checkbox"/> 22. Educational Programs   |
| <input type="checkbox"/> 7. Actions by Regulatory Agencies for Protection of the Environment | <input type="checkbox"/> 23. Normal Operations of Facilities for Public Gatherings              |
| <input type="checkbox"/> 8. Actions by Regulatory Agencies for Protection of Nat. Resources  | <input type="checkbox"/> 24. Regulation of Working Conditions                                   |
| <input type="checkbox"/> 9. Inspection   | <input type="checkbox"/> 25. Transfers of Ownership of Interests in Land to Preserve Open Space |
| <input type="checkbox"/> 10. Loans   |   |
| <input type="checkbox"/> 11. Accessory Structures  | <input type="checkbox"/> 26. Acquisition of Housing for Housing Assistance Programs             |
| <input type="checkbox"/> 12. Surplus Govt. Property Sales                                    | <input type="checkbox"/> 27. Leasing New Facilities   |
| <input type="checkbox"/> 13. Acquisition of Land for Wild-Life Conservation Purposes         | <input type="checkbox"/> 28. Small Hydroelectric Projects at Existing Facilities                |
| <input type="checkbox"/> 14. Minor Additions to Schools                                      | <input type="checkbox"/> 29. Cogeneration Projects at Existing Facilities                       |
| <input type="checkbox"/> 15. Minor Land Divisions  |   |
| <input type="checkbox"/> 16. Transfer of Ownership of Land to Create Parks                   |   |
- E. ☐ Lead Agency Other Than County:

\*The amendment does not have the potential to create environmental impacts because it does not actually increase density or modify the density range given in the General Plan. Further, any potential impacts of the density range given in the General Plan have been analyzed through the preparation of a full EIR as part of the General Plan approval process in 1994.

  
Paia Levine, Resource Planner

4-9-02  
Date

20

Ex. B



# County of Santa Cruz

## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060

(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

February 7, 2002

Agenda: February 12, 2002  
26,

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, California 95060

**SUBJECT:** CONTINUED CONSIDERATION OF A POLICY TO REQUIRE THAT THE APPROVING BODY MAKE CERTAIN FINDINGS AS PART OF APPROVAL, OF A RESIDENTIAL DEVELOPMENT THAT IS BELOW THE GENERAL PLAN DENSITY RANGE, INCLUDING INFORMATION ABOUT THE AMOUNT OF AFFORDABLE HOUSING IN EACH DISTRICT INCLUDING THE INCORPORATED CITIES.

Members of the Board:

On October 2, 2001, your Board hosted an affordable housing workshop that discussed a variety of issues. Some of those issues included the **high** cost of new housing (average price currently = \$695,000), the lack of affordable for-sale and rental units, the limited supply of available land for new development and the urgent need for housing to address the workforce housing needs **and** to serve special groups such as farmworkers and the elderly. During the workshop, your Board was presented with a comprehensive overview of the wide range of issues impacting housing prices in the community, and that local government played a limited role in impacting the overall housing market: One area, however, that was identified as a key area where local government could impact the housing market involved whether the remaining housing opportunity sites are approved for development projects which maximize housing opportunities for the community as a whole.

On November 6, 2001, a **follow-up** report, entitled the Affordable Housing Action Plan, was presented to your Board that responded to the issues raised on October 2<sup>nd</sup>. (Attachment 1, November 6<sup>th</sup> minute order) Although that report also made clear that the housing issues in Santa Cruz County are the result of many complex factors, **the** County could take steps to **modify** local requirements and practices in order to create more affordable housing opportunities in the County. One of the central features of the proposed Housing Action Plan presented to your Board, stated the following:

Approval of a policy to require [that] the Approving Body must make certain findings as **part** of approval of a residential development that is below the General Plan density range and that the proposed use is consistent with the General Plan and appropriate, given the need for housing in the community, and return to the Board on December 11, 2001 with specific program recommendations;

The purpose of the recommendation was to revise current practices to better ensure that properties currently zoned for residential use be developed at a density level consistent with the density range designated by the General Plan and the zoning. Your Board continued this issue to December 11, 2001, and staff prepared a report outlining in more detail its interpretation of the General Plan policies and presenting a process for the review of applications for development at densities less than the lowest end of the General Plan density range. In addition, in the context of your Board discussing the overall distribution of affordable units throughout the County, your Board directed staff to provide additional information regarding the number of affordable units in each supervisorial district, including affordable housing that is located in the incorporated cities. That information was provided to your Board on December 11\*.

On December 11, 2001, the item was again continued and County Counsel was requested to conduct additional research on the development of the General Plan policies. County Counsel, with the assistance of the Planning Department, has complete the historical research on the formation of the current General Plan policies and is presenting that report in a separate letter to your Board. (Attachment 2) In brief, County Counsel's conclusion is that the General Plan policies approved by the Board as a **part** of the 1994 General Plan update allows the County to approve projects at any density within or below the designated residential density range of the General Plan. While **this** is not clearly worded in the General Plan, in practice this is direction that staff and the Planning Commission have been acting under since 1994. It is this practice that served as the impetus of the recommendation for change in this area.

#### Proposed Policy Regarding Approval of Housing Development under Existing General Plan and Zoning

The Affordable Housing Action **Plan** addressed the issue of multi-residential zoning by presenting statistics regarding the current availability of RM zoned properties, discussing the recent history of development on these types of land and presented a number of recommendations focusing on ways that the Board could ensure that properties designated for multi-family development are developed at the densities designated by the General **Plan**. The changes proposed called for the development of a requirement for supplemental General Plan consistency findings where development was proposed for approval below the density range set forth **in** the General Plan. The intent of this policy

was to require the Approving Body (Zoning Administrator, Planning Commission or your Board) to consciously make a determination that the density of the proposed project was appropriate, based on General Plan policies and the need for housing in the community.

### Discussion of General Plan Density Issues

One of the issues identified in the Affordable Housing Action Plan was the fact that there are not many parcels remaining that are suitable for higher density residential development. Meanwhile, projects have been approved in the past at densities that are below the levels set forth in the General Plan land use designation. While the General Plan permits these types of projects to be approved, since the adoption of the General Plan in 1994, things have changed significantly. Housing prices have skyrocketed and the supply of new housing units, especially those for lower and middle income households, and available land for new development has dwindled. These are some of the reasons why your Board hosted the October housing workshop and directed the preparation of the Housing **Action Plan**. That Plan identified a number of initiatives to address affordable housing issues, including a proposal to encourage the development residential properties at the specified density levels.

### Potential Alternatives

There are a number of actions that your Board could consider to address the issue of maintaining the densities established by the specific General Plan designations. One approach would be for your Board to adopt a new General Plan policy superceding the existing policy language that allows approval of residential development outside the designated density range. **This** approach would involve ~~an~~ amendment to the General Plan.

Another approach which would not require a **General** Plan amendment would be to require that a specific action be taken for applications that seek approval at densities below **the** designated density range. The recommended action in the Affordable Housing Action Plan to address **this** issue was the development of a policy that required the Approving Body to make specific findings **for** a project with density less than the General Plan density range. The findings would specifically document how the project was consistent with the General Plan and appropriate given the need **for** housing in the community **and** the lower densities proposed. These findings would be in addition to, but complementary to, the existing findings required by the County Code. While these **findings** would be useful in determining whether the particular site was appropriately designated, staff is concerned **that** a project applicant would not discover whether there ~~was~~ support for the project at a less ~~than~~ designated density ~~until~~ late in the application

process.

In order to address this concern, staff has refined the approach recommended in the October Report. It is proposed that staff establish a procedure to analyze and review an application proposed at a density less than the lowest end of the density range as early in the process as possible. This would give the developer a preliminary determination as to whether the proposed density is appropriate, given the site characteristics, environmental issues, surrounding development and the need for housing in the community. Staff has prepared the following draft language to implement this alternative.

The proposed procedure which could be added to the existing language to County Code Section 18.10.140 (Conformity with the General Plan and other legal requirements), would be as follows:

**18.10.140 Conformity with the general plan and other legal requirements.**

(a) All permits and approvals issued under this Chapter shall be consistent with the provisions of the adopted County General Plan. Any proposed permit or approval which is not consistent with the **existing** adopted General Plan may be issued or approved only concurrently with the adoption of appropriate amendments to the General Plan necessary to maintain consistency. "Consistent with" as used in this section means that the permits and approvals must be in harmony with and compatible with the policies, objectives, and land use programs of the General Plan.

(b) All proposals for development of property at less than the lowest end of the designated density range of the County General Plan/LCP land use designation shall be subject to review by the Development Review Group. Following completion of the Development Review Group process, the proposal and the information developed as a result of the Development Review Group process shall be referred to the Board of Supervisors for a preliminary General Plan consistency determination discussing whether the proposed density is appropriate given the need for housing in the community.

As indicated in the proposed language, the referral to the Board of Supervisors would occur following the Development Review Group (DRG) process. Staff is recommending this particular process for a number of reasons. First, the DRG process is intended to gather a great deal of information regarding the property including infrastructure constraints, environmental issues, and consistency with County ordinances and General Plan policies. This information will give the Board of Supervisors a basis to conduct the policy review. Second, the DRG process, an advisory process, is conducted in the

earliest stage of the development review process and is prior to the filing of applications for a project. This means that there are no Permit Streamlining Act, CEQA or Subdivision Map Act issues. And third, because the DRG is a relatively inexpensive review (\$1,376 plus DPW charges) and the application requirements are much less rigorous than for a permit application, the applicant's investment in the project and the process will be minimized.

Following the Board's review, a preliminary determination will be made regarding whether the proposed density is generally appropriate for the site. If the proposed density level is deemed to be inappropriate for the site, the applicant would be free to proceed with the proposal, but they would be aware of this critical issue prior to investing further resources into their project.

Because the approach recommended by staff will require review by the Planning Commission and the Coastal Commission, the final ordinance is proposed to return to your Board in June, 2002.

#### Discussion and Recommendation

As identified in the Affordable Housing Action Plan considered by your Board on November 6, 2001, the amount of land suitable for residential development is limited. Although residential properties have been designated with specific density ranges, development has occurred below the lowest end of the density range, and County Counsel's opinion confirms the past practice that the General Plan policy allows their development at any density below the ~~maximum~~ density established for the particular land use designation. If this practice continues, the few remaining sites appropriate for residential development are likely to be developed in this same fashion, creating a fewer number of larger and more expensive homes on the remaining housing opportunity sites. As a result, this is the practice that is recommended for change.

In order to prevent the inappropriate development of the remaining residential properties at densities below the designated density range, the Affordable Housing Action Plan recommended that your Board adopt a policy that would require the Approving Body to ~~make~~ additional findings to approve projects at densities less ~~than~~ the density range.

The refined approach discussed in this report would allow the Board of Supervisors to determine whether proposed density of a project is appropriate for a specific site, and to do so at the earliest stage of the development review process. The proposed process would provide a means for the County to make site specific determinations on the appropriate densities for future development on the few remaining residential sites, while addressing the site specific issues regarding infill development.




25  
A. Ex B.

Given the urgent need for housing for those who live and **work** here, we RECOMMEND that your Board:

1. Accept and file this report; and
2. Approve, in concept, the proposed amendments to County Code Chapter 18.10, presented above, to add a process to review applications that are not consistent with the General Plan density range; and
3. Direct the Planning Department to process the ordinance amendments and to develop any required administrative procedures, and to return on or before June 11, 2002, for **final** adoption of the ordinance.
4. Accept and file the report of **County** Counsel regarding the history of the General Plan policies (Attachment 2)

Sincerely,

  
Alvin D. James  
Planning Director

RECOMMENDED: 

Susan A. Mauriello  
County Administrative Officer

- Attachments
1. Minute Order, Item No. 63, November 6, 2001
  2. County Counsel letter, February 5, 2002



# County of Santa Cruz

## OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 950604068 :  
(831) 454-2040 FAX: (831) 454-2115

DANA McRAE, COUNTY COUNSEL

CHIEF ASSISTANT  
RAHN GARCIA

### Assistants

Deborah Steen	Julia Hill
Harry A. Oberhelman III	Shannon Sullivan
Marie Costa	Sharon Carey-Stronck
Jane M. Scott	Dwight L. Herr
Tamyra Rice	David Kendig
Pamela Fyfe	Ligi Yee
Kim Baskett	Miriam Stomblor

February 5, 2002

### Agenda: February 12, 2002

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street, Room 500  
Santa Cruz, California 95060

### Re: **REPORT ON GENERAL PLAN/LOCAL COASTAL PROGRAM DENSITY ISSUES**

Dear Members of the Board

On December 11, 2001, your Board began consideration of a staff report proposing a policy that would require certain findings as part of an approval of a residential development whose density was less than the density range designated by the County's General Plan/Local Coastal Program Land Use Plan (GPLCP). The report was prepared in response to your Board's direction following the affordable housing workshop conducted on October 2, 2001.

Contained within the report was a discussion of certain GP/LCP policies, specifically, Policies 2.8.3, 2.9.3, and 2.10.4 (refer to Exhibit "A"), relating to development approvals where the proposed density of the project is less than the lower limit of the density range. These three policies relate to Low, Medium and High Density Urban Development, and share identical language. Conformity with these policies is required in order that general plan consistency findings can be made. A general plan consistency finding is required for each land use project approval.

Staff's recent analysis of the language contained in these provisions resulted in a conclusion that they operated to prohibit the approval of a project at less than the lower limit of the applicable GPLCP density range. Subsequent review of the drafting and

approval of these particular provisions has clarified that the last sentence of each of these three sections operates to authorize a person to voluntarily apply for and potentially gain approval of, a development **with** a density that is less than the lowest end of the designated density range. This letter will examine the policies at issue, and then review the circumstances leading up to their inclusion **within** the 1994 General Plan.

### **GENERAL PLAN POLICIES REGARDING DEVELOPMENT AT LESS THAN THE LOWEST END OF THE DESIGNATED DENSITY RANGE**

General ~~Plan~~ Policies 2.8.3, 2.9.3, and 2.10.4 address the situation where a residential project with a density at less than the lower end of the density range is considered for approval. Each section identifies three circumstances relating to applications for residential development projects that are within the applicable **GPLCP** density range:

1. Where the proposed project fails to comply with **the** applicable **GP/LCP**, **zoning** or development policies (other ~~than~~ density range) then in effect.
2. Where the findings of Government Code Section **65589.5** (refer to Exhibit "B") have been made **to** authorize the denial of a **very** low, **low**, or moderate income residential **housing** project have been made.
3. Where planning or **environmental** review determine that significant health, safety, nuisance or other significant policy or **environmental** impacts that could not be feasibly mitigated would result from allowing density **within** the designated density range.

Whenever **any one** of these three circumstances is present, the policy **requires** that the project **be** denied and that the **County** initiate a GP/LCP amendment, and **any** necessary rezoning, to establish **an** appropriate density range for the subject property.

The final sentence of these sections reads **as follows**:

"Nothing in **this** policy **shall** preclude **a** property owner **from** **voluntarily** filing **an** initial application for development at less ~~than~~ the lowest end of the designated density range."

As previously stated, this sentence was **initially** read **within** the context of the entire section as also being governed **by** the requirement **for** denial of the project and initiation by the **County** of a GP/LCP amendment. **As** such, **it** was seen as **an** authorization for the Planning

Department to accept the application, even though it was **facially** inconsistent with the CP/LCP density range requirement. However, questions were raised about *this* interpretation by a member of the Board who served during the time of the adoption of the 1994 GP/LCP.

This Office was then requested to examine the documents and records leading up to the approval of the policies in question, to determine if there was evidence which might bear on the question of their interpretation. A review of the written and audio record of the County Planning Commission and Board of Supervisor's hearings on the adoption of the 1994 General Plan provide some guidance bearing on what the Board intended when it adopted these particular policies.

### THE 1994 GENERAL PLAN/LOCAL COASTAL PROGRAM LAND USE PLAN

The 1994 GPLCP, which updated the 1980 General Plan, **was** adopted by the Board of Supervisors on May 24, 1994. Public hearings were held to gather suggestions and comments from the public. The document itself was **initially** drafted by staff, **then** reviewed by the Planning Commission prior to its **final** adoption by the Board of Supervisors. The adopted plan **was** subsequently certified by the California Coastal Commission as meeting the requirements of the **California** Coastal Act on December 15, 1994.

### COUNTY PLANNING COMMISSION ACTIONS

During its consideration of the draft General Plan, the **County** Planning Commission reviewed the staff's recommendations for General Plan Policies **2.8.3, 2.9.3, and 2.10.4**. **On November 5, 1993**, Planning staff recommended changes to the then proposed General Plan policy relating to "Development Density Less **than** Lower Limit of Range" (refer to Exhibit "C".) Originally, the language for **this** policy would have allowed approval of a project at less **than** the **lower end of** the density range if certain findings were made which **would** demonstrate that **it would be** "unfeasible" to meet the designated density range. Staff recommended substitute language that would have allowed approval at less **than** the designated density range **only** under two circumstances:

1. Where **a** portion of the parcel developed at lower **density** would be sited so **as** not to preclude future development of the entire **site** within the designated density range, and **a** master plan **for** such development **had** been approved.

2. The maintenance, enlargement or replacement of existing development that does not conform to the designated density range.

**Finally**, staff recommended language requiring denial of projects whose proposed density would lead to significant environmental impacts which could not be mitigated. Once denied, the **County** would then be required to initiate a General Plan amendment to redesignate the property with a more appropriate density range.

On December 1, 1993, the Planning **Commission** met to consider the **draft** General Plan, which included the Planning staff's November 5, 1993, proposed revisions, as well as a revision to Policies 2.8.3, 2.9.3 and 2.10.4, proposed by the **County** Counsel's Office (refer to Exhibit "D"). **County** Counsel's proposal added language authorizing a property owner to voluntarily file an **initial** application at less than the designated density range where:

1. **An** approved site plan and master circulation plan would not preclude future development within the required density range, or
2. The maintenance, enlargement or replacement of existing development that does not conform to the designated density range.

**During** its discussion of these proposed revisions, the Planning Director advised the Commission that under **both** their recommended language and **County** Counsel's proposed language, these policies would prohibit a project proposed at less than the lowest end of the density range, unless accompanied by a site plan allowing for the required density at a later time. The Director stated that the proposed language would operate to prevent his staff from accepting and **filing** any application for **new** development that was inconsistent with the designated density range.

**During** the Commission's deliberations, one member expressly advocated his support for a policy that **would allow** a person to voluntarily apply for and have approved, a residential development with a density lower than the designated density range. Another Commissioner argued that such a policy could frustrate the **County's** attempt to meet its planned housing needs. Staff also noted that such a policy could be inconsistent with the General Plan's **goal of** redirecting growth from the rural to the urbanized areas of the county.

Following their discussions the Commissioner **advocating** that there be no limits on the approval of an application at less than the designated density range if submitted voluntarily, moved to amend the language. His motion amended the last paragraph in the **County** Counsel's proposed revision to read **as follows**:

"Nothing in this policy shall preclude a property owner ~~from~~ voluntarily filing an initial application for development at less ~~than~~ the lowest end of the designated density range ~~under the following circumstances:~~

~~(a) Where a site plan and a master circulation plan are approved demonstrating that the proposed development will not preclude future development within the designated density range; or~~

~~(b) Where existing residential development that does not conform to the designated density range is maintained, enlarged, or replaced."~~

This motion **was** approved by a three to one vote. The revised language **was** forwarded to the Board of Supervisors as part of the Planning Commission's recommendation dated January 25, 1994 (refer to Exhibit "E".)

### BOARD OF SUPERVISORS DELIBERATIONS

The Board of Supervisors conducted its review of the draft General **Plan** over the course of several **months** during **1994**. The Board conducted a page by page examination of the draft General **Plan** recommended by the Planning Commission, and its consideration of the language **contained in Policies 2.8.3, 2.9.3 and 2.10.4**, took place on **March 2, 1994**. Supervisor Beautz initiated the discussion of these policies by seeking clarification of its meaning. **She** noted that the language originally before the Planning Commission **would** have precluded development at less ~~than~~ the designated density range of the General **Plan**, but **that the Commission** revised it to **allow** voluntary submission of applications at less than the range. Planning staff confirmed that **the Commission rejected the** recommendation by Planning staff and **County** Counsel that a project with less than the designated density range be **found** inconsistent with the General Plan, for **a policy which would allow** such a project. **Staff** stated that the Planning Commission's recommended language **would** authorize:

"...a property owner to **come** in and develop **his** property at any density they wish ...as long **as** it doesn't **go** beyond the General Plan **density** range. **You** could **go** way below it."

**On May 10, 1994**, the **Board of Supervisors** adopted the Planning **Commission's** recommended language for Policies 2.8.3, 2.9.3 and 2.10.4 without further discussion or revision.

### CONCLUSION

When the Board of Supervisors adopted the 1994 GP/LCP, they were aware that the language recommended for Policies 2.8.3, 2.9.3 and 2.10.4 was revised by the Planning Commission to allow a person to voluntarily apply for, and potentially gain approval of, a residential development project whose density was less than the lowest end of the density range designated for that property.

IT IS THEREFORE RECOMMENDED that your Board accept and file this report.

Very truly yours,

DANA McRAE, COUNTY COUNSEL

By:   
RAIN GARCIA  
Chief Assistant County Counsel

RECOMMENDED:

  
SUSAN A. MAURELLO  
County Administrative Officer

Exhibits

# Residential Properties Recently Developed (2000-2001) or Subject to Pending Subdivision Applications

APN	Name	Status	General Plan/Zoning	Number of Approved/Proposed Lots	Average Unit Density (Sq. ft./unit, or developable area)	Potential Units (Based on minimum General Plan density)
025-013-11	Dover Estates	Approved	R-UM/RM-4	7	6124/unit	7
028-062-29	Portola Shores	Approved	R-UM/RM-4	8	6548/unit	8
026-641-04	Yacht Harbor Oaks	Approved	R-UM/RM-4	16	5142/unit	13
029-051-48	The Grove	Approved	R-UM/RM-4	15	7354/unit	18
026-491-05	Grey Seal Manor	Approved	R-UM/R-1-5	7	5332/unit	6
031-031-09	Rodeo Creek	Approved	R-UL/R-1-6	10	6591/unit	6
026-261-01	Harbor Vista	Approved	R-UM/RM-4	11	7354/unit	13
037-251-21, -22	Atherton Place	Approved	R-UH/RM-3	26	7.75 acres	85
<b>Total</b>				<b>100</b>		<b>156</b>
041-011-20	Blacksmith Homes	Pending	R-UM/RM-4	16	4.27 acres	31
027-051-09, -24, -25	Brooks 7 <sup>th</sup> Avenue	Pending	R-UM/RM-6-D	11	2.303 acres	16
026-231-08, -17, -19	Harbor Square	Pending	R-UM/RM-4	7	4375/unit	5
029-381-17	Greystone	Pending	R-UM/RM-4, PF	15	7348/unit	18
<b>Total</b>				<b>49</b>		<b>70</b>
<b>Grand Total</b>				<b>149</b>		<b>226</b>



## URBAN RESIDENTIAL SITING AND DENSITY

### Objective 2.7 Urban Very Low Density Residential Designation (R-UVL)

To provide areas of residential development on large lots at very low densities (1.0 to 4.3 units per net developable acre) inside the Urban Services Line which have a full range of urban services, or in Urban or Rural Services Line areas currently developed to an urban density. This designation is appropriate in areas with significant environmental constraints, or as a transition to adjacent rural density development.

### Policies

#### 2.71 Minimum Lot Sizes

(LCP) Allow residential development at densities equal to or less than 4.3 units per net developable acre. This density range is equivalent to 10,000 square feet to one acre of net developable parcel area per dwelling unit. Include increased density incentives for projects with a large percentage of very low or lower income housing in accordance with State law. (See section 2.11.)

#### 2.73 Specific Density Determination

(LCP) Consider terrain, adequacy of access, presence of significant environmental resources, the pattern of existing land use in the neighborhood, and unique circumstances of public value, for instance, the provision of very low or lower income housing in accordance with State law, in determining the specific density to be permitted within the Urban Very Low Density Residential designation. (See chapter 8: Community Design.)

### Programs

a. Establish design and development standards in the zoning ordinance for the Urban Very Low Residential designation. Determine allowed uses and zoning districts appropriate to very low density residential neighborhoods. (Responsibility: Planning Department, Planning Commission, and Board of Supervisors)

Figure 2-3 Allowable Densities for Urban Residential Land Use Designations		
Urban Designation	Density ①	Lot Size Requirements ② ③
Urban Very Low	1.0 – 4.3 units per acre	10,000 sf – 1 acre
Urban Low	4.4 – 7.2 units per acre	6,000 sf – 10,000 sf
Urban Medium	7.3 – 10.8 units per acre	4,000 sf – 6,000 sf
Urban High	10.9 – 17.4 units per acre	2,500 sf – 4,000 sf
① All densities are in units per net developable acre. Refer to the Glossary for a definition of net developable area. ② All lot sizes are square feet of net developable parcel area per unit. Refer to the Glossary for a definition of net developable area. ③ The minimum lot size for the creation of new parcels for detached units is 3,500 square feet. (see Policy 2.10.2)		

## Objective 2.8 Urban Low Density Residential Designation (R-UL)

- (LCP) To provide low density residential development (**4.4 to 7.2 units per net developable acre**) in **areas within the Urban Services Line** which have a full range of urban services, or in **Urban or Rural Services Line** areas as currently developed to an urban density. Housing **types** appropriate to the **Urban Low Density** designation **may** include detached **houses**, duplexes, and clustered small lot detached **units** at allowable densities.

### Policies

#### 28.1 Minimum Lot Sizes

- (LCP) Allow residential development at densities equivalent to 6,000 to 10,000 square feet of net developable parcel area per **unit**. Increased density incentives for projects with a large percentage of very low, or lower income housing **are** also allowed in accordance with State law. (See section 2.11.)

#### 2.82 Specific Density Determination

- (LCP) Consider **terrain**, adequacy of **access**, presence of significant environmental **resources**, the pattern of existing land use in the neighborhood, and unique circumstances of public value, for instance, the provision of very low or lower income housing in accordance with State law, in determining the specific density **to be permitted** within the **Urban Low Density Residential** designation. (See chapter 8: Community Design.)

#### 2.83 Development Density **Less than** Lower Limit of Range

Where an applicant **has** filed an application for residential development within the **designated density range**, **do** not approve the application at a density **less** than the lowest end of the designated density range, except in the following circumstances:

- Where the proposed residential development **fails** to comply with the General Plan and LCP, zoning or development policies in effect **at** the time that the application for such residential development is determined **to be** complete; or
- Where the written findings required by Government Code Section **65589.5** have been made.

When planning **or** environmental review demonstrates *that* development in the designated density range **will cause** significant health, safety, nuisance **or** other significant **policy** or environmental **impacts** that cannot be feasibly mitigated, the **proposed** development shall be denied and the **County shall** initiate a General Plan and LCP amendment and rezoning (**as** appropriate) to **redesignate** the parcel with density range consistent with those unmitigable impacts.

Nothing **in** this policy shall preclude a **property** owner **from** voluntarily filing an **initial** application for development at **less** than **the lowest end of** the designated density range.

#### 284 Apts: Parcel Size Restrictions

**Prohibit reduction in parcel size on those parcels in the Deer Park Villas area with a Salamander Protection (SP) Combining Zone District. Cooperate with Fish and Game Commission efforts to create a wildlife refuge in this area.**

### Program

- Implement the Urban Low Density land use designation through the zone districts shown in section 13.10.170 of the Santa Cruz County Code. (Responsibility: Planning Department, Planning Commission, Board of Supervisors)

## Objective 2.9 Urban Medium Density Residential Designation (R-UM)

(LCP) To provide medium density residential development (7.3 to 10.8 units per net developable acre) in areas within the Urban Services Line (USL) served by a full range of urban services, with access onto collector or arterial streets, and location near neighborhood, community or regional shopping facilities. Housing types appropriate to the Urban Medium Density Residential designation may include: detached houses, duplexes, townhomes, mobile home parks, and small lot detached units at allowable densities.

### Policies

#### 2.9.1 Minimum Parcel Sizes

(LCP) Allow residential development at densities equivalent to 4,000 to 6,000 square feet of net developable parcel area per unit. Increased density incentives for projects with a large percentage of very low or low income housing and for senior housing projects are also allowed in accordance with State law. (See section 2.1.1.)

#### 2.9.2 Specific Density Determination

(LCP) Consider terrain, adequacy of access, presence of significant environmental resources, the pattern of existing land use in the neighborhood, and unique circumstances of public value, for instance, the provision of very low or lower income housing in accordance with State law, in determining the specific density to be permitted within the Urban Medium Density Residential designation. (See chapter 8: Community Design.)

#### 2.9.3 Development Density Less than Lower Limit of Range

Where an applicant has filed an application for residential development within the designated density range, do not approve the application at a density less than the lowest end of the designated density range, except in the following circumstances:

- (a) Where the proposed residential development fails to comply with the General Plan and LCP, zoning or development policies in effect at the time that the application for such residential development is determined to be complete; or
- (b) Where the written findings required by Government Code Section 65589.5 have been made.

When planning or environmental review demonstrates that development in the designated density range will cause significant health, safety, nuisance or other significant policy or environmental impacts that cannot be feasibly mitigated, the proposed development shall be denied and the County shall initiate a General Plan and LCP amendment and rezoning (as appropriate) to redesignate the parcel with density range consistent with those unmitigable impacts.

Nothing in this policy shall preclude a property owner from voluntarily filing an initial application for development at less than the lowest end of the designated density range.

### Program

- a. Implement the Urban Medium Density land use designation through the zone districts shown in section 13.10.170 of the Santa Cruz County Code. (Responsibility: Planning Department, Planning Commission, Board of Supervisors)

## Objective 2.10 Urban High Density Residential Designation (R-UH)

- (LCP) To provide higher density residential development (10.9 to 17.4 units per net developable acre) in areas within the Urban Services Line (USL). These areas shall be located where increased density can be accommodated by a full range of urban services and in locations near collector and arterial streets, transit service, and neighborhood, community, or regional shopping facilities. Housing types appropriate to the Urban High Density designation may include: small lot detached houses, "zero lot line" houses, duplexes, townhomes, garden apartments, mobile home parks, and congregate senior housing.

### Policies

#### 2.10.1 Minimum Parcel Sizes

Allow residential development at densities equivalent to 2,500 to 4,000 square feet of net developable parcel area per unit. Include increased density incentives for projects with a large percentage of very low or lower income housing and for senior housing projects in accordance with State law. (See section 2.11)

#### 2.10.2 Minimum Lot Size

- (LCP) Establish a minimum lot size of 3,500 square feet of net developable parcel area per residential parcel for the creation of new lots in detached unit residential subdivisions.

#### 2.10.3 Specific Density Determination

- (LCP) Consider terrain, adequacy of access, presence of significant environmental resources, the pattern of existing land use in the neighborhood, and unique circumstances of public value, for instance, the provision of very low or lower income housing in accordance with State law, in determining the specific density to be permitted within the Urban High Density Residential designation. (See chapter 8: Community Design.)

#### 2.10.4 Development Density Less than Lower Limit of Range

Where an applicant has filed an application for residential development within the designated density range, do not approve the application at a density less than the lowest end of the designated density range, except in the following circumstances:

- Where the proposed residential development fails to comply with the General Plan and LCP, zoning or development policies in effect at the time that the application for such residential development is determined to be complete; or
- Where the written findings required by Government Code Section 65589.5 have been made.

When planning or environmental review demonstrates that development in the designated density range will cause significant health, safety, nuisance or other significant policy or environmental impacts that cannot be feasibly mitigated, the proposed development shall be denied and the County shall initiate a General Plan and LCP amendment and rezoning (as appropriate) to redesignate the parcel with density range consistent with those unmitigable impacts.

Nothing in this policy shall preclude a property owner from voluntarily filing an initial application for development at less than the lowest end of the designated density range.

#### 2.105 Live Oak: Pacific Family Mobile Home Park

Recognize the Pacific Family Mobile Home Park (025-161-13) as existing residential area and allow a density bonus to increase the park from 34 to 37 spaces, subject to obtaining all appropriate development permits.

## Program

- a Implement the Urban High Density land use designation through the zone districts shown in section 13.10.170 of the Santa Cruz County Code. (Responsibility: Planning Department, Planning Commission, Board of Supervisors)

### Objective 2.11 Residential Density Bonus Incentives for Affordable Housing

To provide opportunities for, and encourage the production of, affordable housing by creating incentives for its production; including a density "bonus" increase over residential densities which would otherwise be allowed by the zoning and General Plan designation. Appropriate housing types for density bonus development are the same as those appropriate to the General Plan land use and zoning designation in which they are located. (See chapter 4: Housing, for additional policies and programs regarding density bonus and provision of affordable housing.)

## Policies

### 2.11.1 Density Bonus for Housing Developments

Allow a density increase of 25 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and Land Use Element of the General Plan and LCP Land Use Plan for any application for a housing development containing either:

- (a) 20 percent of the total housing development units for lower income households (excluding the density bonus units); or
- (b) 10 percent of the total housing development units for very low income households (excluding the density bonus units); or
- (c) 50 percent of the total housing development units of the development will be reserved for qualifying (senior) residents (excluding the density bonus units). [See the Glossary for a definition of very low and lower income households, qualifying (senior) residents, and net developable area.]

The density bonus shall apply to housing developments consisting of five or more dwelling units. Any fractional portion of a residential unit generated by the calculation of a project size based on this density bonus shall be rounded upwards to allow an additional full dwelling unit.

### 2.11.3 Density Bonus for Senior Housing

Allow a density increase of 50 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and Land Use Element of the General Plan and LCP Land Use Plan for developments containing 100 percent lower and very low income qualifying (senior) residents.

The density bonus shall apply to housing developments consisting of five or more dwelling units. Any fractional portion of a residential unit generated by the calculation of a project size based on this density bonus shall be rounded upwards to allow an additional full dwelling unit.

## Program

- a Review and update County policies applicable to projects serving special needs populations, such as single resident occupancy (SRO) development. Consider developing a combining district to establish criteria for SROs and other housing types with limited impacts. (Responsibility: Planning Department, Planning Commission, Board of Supervisors)

**Figure 2-4  
Example of Minimum Lot Sizes/Density  
Including 25% Density Bonus Allowance**

Urban Area Zoning Designation ①	Minimum Lot Size/Density Per Zoning Ordinance ②	Minimum Lot Size/Density with 25% Density Bonus ②
R-1-9	9,000 s.f.	7,200s.f.
R-1-6 RM-6	6,000s.f.	4,800 s.f.
R-1-5 RM-5	5,000s.f.	4,000s.f.
RM-4	4,000s.f.	3,200s.f.
RM-3	3,000 s.f.	2,400 s.f.
<p>① This list is not intended to include every possible zoning designation that may be subject to a density bonus, and is included for illustrative purposes only. Refer to Volume II of the Santa Cruz County Code for a description of R-1 and R-M zoning designations.</p> <p>② All lot sizes are square feet of net developable parcel area per dwelling unit. Refer to the Glossary for a definition of net developable area.</p>		

**65589.5.** (a) The Legislature finds all of the following:

(1) The lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the Economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local **government** not reject or make infeasible housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project for very low, low- or moderate-income households or condition approval in a manner that renders the project infeasible for development for the use of very low, low- or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588 and that is in substantial compliance with this article, and the development project is not needed for the jurisdiction to meet its share of the regional housing need for very low, low-, or moderate-income housing.

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is **no** feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to **low-** and moderate-income households.

(4) Approval of the development project would increase the concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households and there is no feasible method of approving the development at a different site, including those sites identified pursuant to paragraph (1) of subdivision (c) of Section 65583, without rendering the development unaffordable to low- and

moderate-income households.

(5) The development project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation Purposes, or which does not have adequate water or wastewater facilities to serve the project.

(6) The development project is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a housing element pursuant to this article.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources **Code**). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources **Code** or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources **Code**).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with written development standards, conditions, and policies appropriate to, and consistent with, meeting the quantified objectives relative to the development of housing, as required in the housing element pursuant to subdivision (b) of Section 65583. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law which are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety **Code**, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety **Code**; or middle-income households, as defined in Section 65008 of this **code**. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(3) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety **Code**. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(4) "Neighborhood" means a planning area commonly identified as



such in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with section 65950) shall be deemed to be an extension of time pursuant to this paragraph,

(i) If any city, county, or city and county denies approval or imposes restrictions, including a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low-, or moderate-income households without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney fees and costs of suit to the plaintiff or petitioner who proposed the housing development, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not

been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled.

(1) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure, all or part of the record may be filed (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court, If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.